IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 29.01.2007

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice N.PAUL VASANTHAKUMAR

Writ Appeal No.1372 of 2002

1.The State of Tamil Nadu,
rep. by its Commissioner and
Secretary to Government,
Food and Consumer Protection
Department, Ezhilagam, Madras-5.

2.The Collector of Thanjavur,
Thanjavur.

3.The Inspector of Police,
Civil Supplies C.I.D.,
Mayiladuthurai. ... Appellants

Vs.

M.S.sivakadacham ... Respondent

Writ appeal filed under Clause 15 of the Letters Patent against the order of this Court dated 02.09.1998 made in W.P.No.9243 of 1989. Writ of certiorari calling for the records on the file of first respondent in G.O.Ms.No.566 dated 15.4.1988 in pursuant to the order of the second respondent in his proceedings M.R.201/89, No.6, dated 17.12.1987 and quash the order of the first respondent.

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For Appellants : Mr.K.Elango,
Special Government Pleader
For respondent : No appearance

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JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

Aggrieved by the order of the learned single Judge dated 02.09.1998 made in W.P.No.9243 of 1989, the respondents in the writ petition have filed the above writ appeal.

2. The respondent herein-writ petitioner, though duly served notice in this appeal, has not chosen to contest the same by engaging a counsel.

3. Heard Mr.K.Elango, learned Special Government Pleader for the appellants.

4.Aggrieved by the order of the Commissioner and Secretary to Government, Food and Consumer Protection Department, Ezhilagam, Madras-5, dated 15.04.1988 in G.O.Ms.No.566, the respondent herein has filed the writ petition in W.P.No.9243 of 1989 before this Court. BY an order dated 02.09.1998, the learned single Judge has allowed the writ petition and quashed the order of the Government and also directed the Government to refund the fine amount of Rs.1000/- with 12% interest per annum within 60 days from the date of receipt of a copy of the said order by way of draft or cash.

5. The learned Special Government Pleader has brought to our notice the order passed by the Government, which clearly shows that the Government, after considering the relevant materials and after satisfying that there is no valid ground to interfere with the order of the Collector, has dismissed the appeal filed by the writ petitioner. The order further shows that on 08.07.1987 at 5.00 a.m., the Inspector of Police, Civil Supplies, CID., Mayiladuthurai and his party while on patrol duty for detecting the illicit carriage of paddy from Thanjavur District has seized the lorry bearing registration No.TNK 1104 with 160 paddy bags. During enquiry, one Pichairaj, Accountant of the petitioner showed the bill book and informed the Officers that the paddy belonged to the petitioner. The third appellant-Inspector of Police verified the purchase bills, which were erased and corrected and he suspected that the wholesale dealer had attempted to purchase paddy and sell the same without paying any levy to the Government. Therefore, the third appellant seized the lorry and 160 paddy bags and registered a case in Crime No64/87 under Clause 19(1) of Tamil Nadu Essential Trade Articles (Regulation of Trade) Order 1984 read with Section 7(1`)(a)(iii) of Essential Commodities Act, 1955 (Central Act 10 of 1955) and he sent a report to the second appellant for taking further action under Section 6A of Essential

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Commodities Act, 1955. After enquiry, as the offence was proved beyond doubt, the Collector, Thanjavur, has ordered for confiscation of the seized 160 paddy bags and also imposed a fine of Rs.1000/- on the lorry owner.

6. Aggrieved by the order of the Collector, Thanjavur, the respondent herein/writ petitioner filed an appeal before the Government and the Government, after giving an opportunity to the petitioner and after perusing the material records, has confirmed the orders of the Collector, Thanjavur in G.O.Ms. No.566, Food and Consumer Protection Department, dated 15.04.1988. The Government order further shows that the copy of the bill book contains the overwritten details about the date, name, place of the seller, quantity and value of the paddy purchased. The Government had also arrived at a conclusion that the very same bill has been used several times and transported paddy by evading levy payable to the Government. All the above mentioned relevant aspects have been duly considered by the Government. The Government, after finding that there is no valid ground for interference, has rightly dismissed the appeal. While such is the position, the learned single Judge, without going into the relevant aspects and the gravity of the offence and without assigning any reason, has set aside the order of the Government and allowed the writ petition filed by the writ petitioner-respondent.

7. In the light of the above materials, which we have discussed, we are unable to accept the conclusion arrived at by the learned single Judge. On the other hand, we are satisfied that after affording reasonable opportunity to the writ petitioner, the order was passed by the original authority, viz., Collector, Thanjavur, and the same was confirmed by the Government based on the acceptable relevant materials.

8. In such circumstances, we do not find any valid ground to interfere with the orders of the Collector, Thanjavur, and the Government. We are satisfied that that the learned single Judge has committed an error in interfering with the order. Consequently, the order of the learned single Judge dated 02.09.1998 made in W.P.No.9243 of 1989 is set aside and the writ appeal is allowed. No costs.

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Sd/
Asst.Registrar

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Sub Asst.Registrar

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To

1.The Commissioner and
Secretary to Government,
Government of Tamil Nadu,
Food and Consumer Protection
Department, Ezhilagam, Madras-5.

2.The Collector of Thanjavur,
Thanjavur.

3.The Inspector of Police,
Civil Supplies C.I.D.,
Mayiladuthurai.

+ 1 cc to the Government Pleader, SR No.5266

W.A.No.1372 of 2002

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